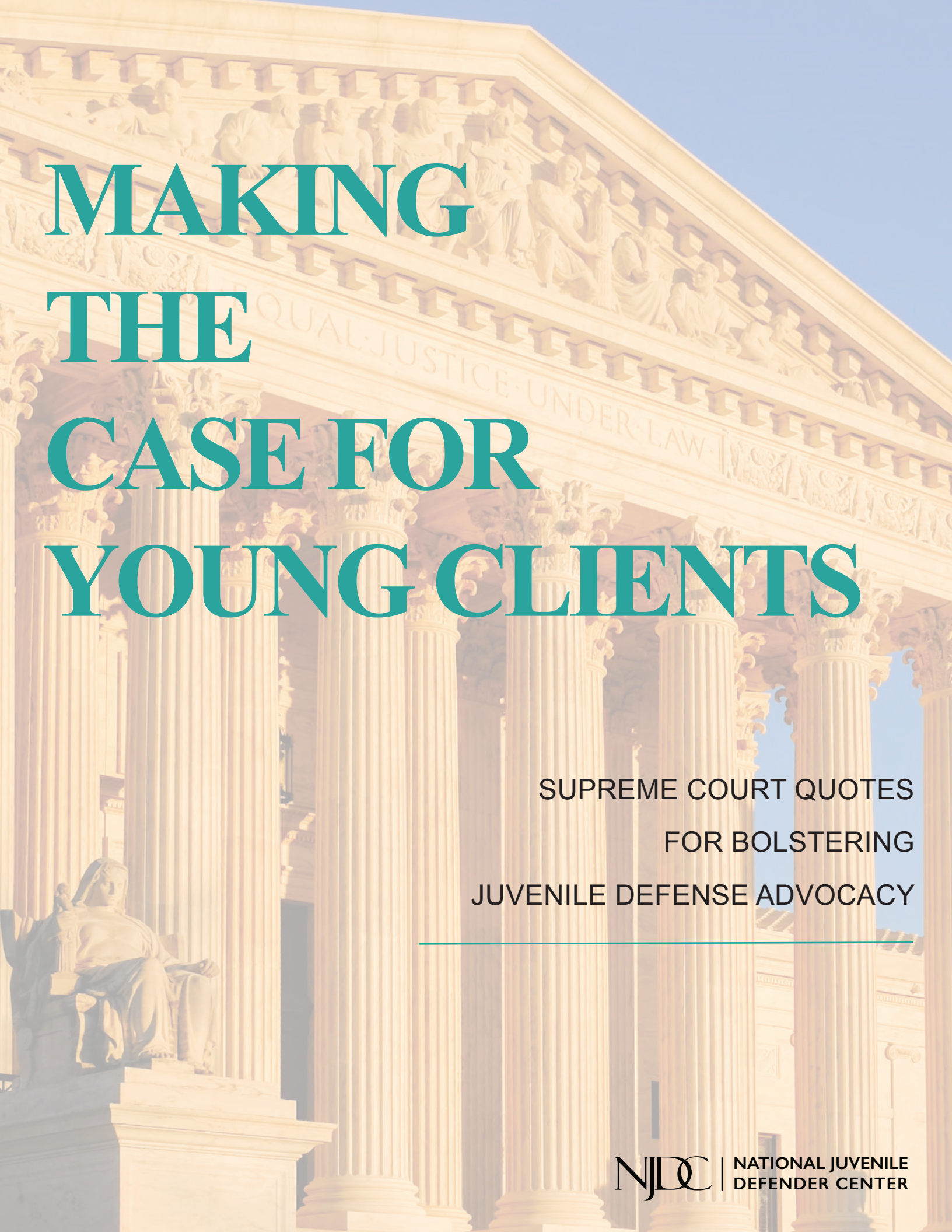

MAKING THE CASE FOR YOUNG CLIENTS

SUPREME COURT QUOTES
FOR BOLSTERING
JUVENILE DEFENSE ADVOCACY

NJDC | NATIONAL JUVENILE DEFENDER CENTER

INTRODUCTION

THIS BRIEF HIGHLIGHTS THE UNITED STATES SUPREME COURT'S MOST IMPORTANT LANGUAGE IN LANDMARK CASES ABOUT YOUNG PEOPLE'S RIGHTS. THESE QUOTES CAN BE USED TO BOLSTER THE ARGUMENTS AND PLEADINGS OF JUVENILE DEFENSE ATTORNEYS AND ADVOCATES AS THEY DEFEND YOUTH CAUGHT IN THE LEGAL SYSTEM.

Language is important in defending youth in juvenile court and delinquency proceedings. From recognizing that youth are more susceptible to coercion during an interrogation to reinforcing the principle that youth are constitutionally different from adults, the United States Supreme Court has spent the past seventy years boldly delineating the rights and obligations due to youth.

The Supreme Court has applied these protections required under the Due Process Clause of the Fourteenth Amendment and used precedential language to abolish a number of practices: the death penalty for youth, sentences of life without the possibility of parole on juveniles (JLWOP) for non-homicide offenses for youth, and the imposition of a mandatory life without parole sentence on youth. In strengthening the administration of justice for youth, the Supreme Court established important language that is useful in representing the expressed interests of youth clients.

IN THE

SUPREME COURT OF THE UNITED STATES

AT

OCTOBER TERM, 1966.

IN RE GAULT ET AL.

APPEAL FROM THE SUPREME COURT OF ARIZONA.

No. 116. Argued December 6, 1966.—Decided May 15, 1967.

ADOLESCENT DEVELOPMENT

"[J]UVENILES ARE MORE VULNERABLE OR SUSCEPTIBLE TO NEGATIVE INFLUENCES AND OUTSIDE PRESSURES, INCLUDING PEER PRESSURE. ('[Y]OUTH IS MORE THAN A CHRONOLOGICAL FACT. IT IS A TIME AND CONDITION OF LIFE WHEN A PERSON MAY BE MOST SUSCEPTIBLE TO INFLUENCE AND TO PSYCHOLOGICAL DAMAGE'). THIS IS EXPLAINED IN PART BY THE PREVAILING CIRCUMSTANCE THAT JUVENILES HAVE LESS CONTROL, OR LESS EXPERIENCE WITH CONTROL, OVER THEIR OWN ENVIRONMENT."

ROPER V. SIMMONS, 543 U.S. 551, 569 (2005).

"'[J]ust as the chronological age of a minor is itself a relevant mitigating factor of great weight, so must the background and mental and emotional development of a youthful defendant be duly considered' in assessing his culpability." *Miller v. Alabama*, 567 U.S. 460, 476 (2012).

"[I]mposition of a State's most severe penalties on juvenile offenders cannot proceed as though they were not children." *Miller v. Alabama*, 567 U.S. 460, 474 (2012).

"('[C]ourts should be instructed to take particular care to ensure that [young children's] incriminating statements were not obtained involuntarily'). But *Miranda*'s procedural safeguards exist precisely because the voluntariness test is an adequate barrier when custodial interrogation is at stake." *J.D.B. v. North Carolina*, 564 U.S. 261, 281 (2011).

"In short, officers and judges need no imaginative powers, knowledge of developmental psychology, training in cognitive science, or expertise in social and cultural anthropology to account for a child's age." *J.D.B. v. North Carolina*, 564 U.S. 261, 279-80 (2011).

"A child's age, when known or apparent, is hardly an obscure factor to assess." *J.D.B. v. North Carolina*, 564 U.S. 261, 279 (2011).

"Neither officers nor courts can reasonably evaluate the effect of objective circumstances that, by their nature, are specific to children without accounting for the age of the child subjected to those circumstances." *J.D.B. v. North Carolina*, 564 U.S. 261, 276 (2011).

“[S]o long as the child’s age was known to the officer at the time of police questioning, or would have been objectively apparent to a reasonable officer, its inclusion in the custody analysis is consistent with the objective nature of the test.” *J.D.B. v. North Carolina*, 564 U.S. 261, 277 (2011).

“‘[O]ur history is replete with laws and judicial recognition’ that children cannot be viewed simply as miniature adults.” *J.D.B. v. North Carolina*, 564 U.S. 261, 274 (2011).

“We have observed that children ‘generally are less mature and responsible than adults,’ that they ‘often lack the experience, perspective, and judgment to recognize and avoid choices that could be detrimental to them,’ ‘that they are more vulnerable or susceptible to . . . outside pressures’ than adults, and so on.” *J.D.B. v. North Carolina*, 564 U.S. 261, 272 (2011).

“‘[A]ll American jurisdictions accept the idea that a person’s childhood is relevant circumstances’ to be considered”. *J.D.B. v. North Carolina*, 564 U.S. 261, 274 (2011).

“In some circumstances, a child’s age ‘would have affected how a reasonable person’ in the suspect’s position ‘would perceive his or her freedom to leave.’ That is, a reasonable child subjected to police questioning will sometimes feel pressured to submit when a reasonable adult would feel free to go.” *J.D.B. v. North Carolina*, 564 U.S. 261, 271-72 (2011).

“The juvenile should not be deprived of the opportunity to achieve maturity of judgment and self-recognition of human worth and potential.” *Graham v. Florida*, 560 U.S. 48, 79 (2010).

“Difficulty in weighing long-term consequences; a corresponding impulsiveness; and reluctance to trust defense counsel, seen as part of the adult world a rebellious youth rejects, all can lead to poor decisions by one charged with a juvenile offense.” *Graham v. Florida*, 560 U.S. 48, 78 (2010).

“[T]he features that distinguish juveniles from adults also put them at a significant disadvantage in criminal proceedings. Juveniles mistrust adults and have limited understandings of the criminal justice system and the roles of the constitutional actors within it. They are less likely than adults to work effectively with their lawyers to aid in their defense.” *Graham v. Florida*, 560 U.S. 48, 78 (2010).

“[A]s legal minors, [juveniles] lack the freedom that adults have to extricate themselves from a criminogenic setting.” *Roper v. Simmons*, 543 U.S. 551, 569 (2005).

“It follows that, when compared to an adult murderer, a juvenile offender who did not kill or intend to kill has a twice diminished moral culpability. The age of the offender and the nature of the crime each bear on the analysis.” *Graham v. Florida*, 560 U.S. 48, 69 (2010).

“A juvenile is not absolved of responsibility for his actions, but his transgression ‘is not as morally reprehensible as that of an adult.’” *Graham v. Florida*, 560 U.S. 48, 68 (2010).

“The reality that juveniles still struggle to define their identity means it is less supportable to conclude that even a heinous crime committed by a juvenile is evidence of irretrievably depraved character. From a moral standpoint it would be misguided to equate the failings of a minor with those of an adult, for a greater possibility exists that a minor’s character deficiencies will be reformed. Indeed, ‘[t]he relevance of youth as a mitigating factor derives from the fact that the signature qualities of youth are transient; as individuals mature, the impetuousness and recklessness that may dominate in younger years can subside.’” *Roper v. Simmons*, 543 U.S. 551, 570 (2005).

“Their own vulnerability and comparative lack of control over their immediate surroundings mean juveniles have a greater claim than adults to be forgiven for failing to escape negative influences in their whole environment.” *Roper v. Simmons*, 543 U.S. 551, 570 (2005).

“The susceptibility of juveniles to immature and irresponsible behavior means ‘their irresponsible conduct is not as morally reprehensible as that of an adult.’” *Roper v. Simmons*, 543 U.S. 551, 570 (2005).

“[T]he character of a juvenile is not as well formed as that of an adult. The personality traits of juveniles are more transitory, less fixed.” *Roper v. Simmons*, 543 U.S. 551, 570 (2005).

“[J]uveniles are more vulnerable or susceptible to negative influences and outside pressures, including peer pressure. (‘[Y]outh is more than a chronological fact. It is a time and condition of life when a person may be most susceptible to influence and to psychological damage’). This is explained in part by the prevailing circumstance that juveniles have less control, or less experience with control, over their own environment.” *Roper v. Simmons*, 543 U.S. 551, 569 (2005).

“Adolescents are overrepresented statistically in virtually every category of reckless behavior.” *Roper v. Simmons*, 543 U.S. 551, 569 (2005).

“In recognition of the comparative immaturity and irresponsibility of juveniles, almost every State prohibits those under 18 years of age from voting, serving on juries, or marrying without parental consent.” *Roper v. Simmons*, 543 U.S. 551, 569 (2005).

“[A] lack of maturity and underdeveloped sense of responsibility are found in youth more often than in adults and are more understandable among the young. These qualities often result in impetuous and ill-considered actions and decisions.” *Roper v. Simmons*, 543 U.S. 551, 569 (2005).

“The reality that juveniles still struggle to define their identity means it is less supportable to conclude that even a heinous crime committed by a juvenile is evidence of irretrievable depraved character.” *Roper v. Simmons*, 543 U.S. 551, 553 (2005).

“Their own vulnerability and comparative lack of control over their immediate surroundings mean juvenile shave a greater claim than adults to be forgiven for failing to escape negative influences in their whole environment.” *Roper v. Simmons*, 543 U.S. 551, 553 (2005).

“Juveniles’ susceptibility to immature and irresponsible behavior means ‘their irresponsible conduct is not as morally reprehensible as that of an adult.’” *Roper v. Simmons*, 543 U.S. 551, 553 (2005).

“Although the juvenile-court system had its genesis in the desire to provide a distinctive procedure and setting to deal with the problems of youth, including those manifested by antisocial conduct, our decisions in recent years have recognized that there is a gap between the originally benign conception of the system and its realities.” *Breed v. Jones*, 421 U.S. 519, 528 (1975).

“Under our constitution, the condition of being a boy does not justify a kangaroo court.” *In re Gault*, 387 U.S. 1, 28 (1967).

“[T]he appearance as well as the actuality of fairness, impartiality and orderliness—in short, the essentials of due process—may be a more impressive and more therapeutic attitude so far as the juvenile is concerned.” *In re Gault*, 387 U.S. 1, 27 (1967).

“He cannot be compared with an adult in full possession of his senses and knowledgeable of the consequences of his admissions. He would have no way of knowing what the consequences of his confession were without advice as to his rights—from someone concern with securing him those rights—and without the aid of more mature judgment as to the steps he should take in the predicament in which he found himself.” *Gallegos v. Colorado*, 370 U.S. 49, 54-55 (1962).

ACCESS TO COUNSEL

"[T]HE ASSISTANCE OF COUNSEL IS ESSENTIAL FOR PURPOSES OF WAIVER PROCEEDINGS, SO WE HOLD NOW THAT IT IS EQUALLY ESSENTIAL FOR THE DETERMINATION OF DELINQUENCY, CARRYING WITH IT THE AWESOME PROSPECT OF INCARCERATION IN A STATE INSTITUTION UNTIL THE JUVENILE REACHES THE AGE OF 21."

IN RE GAULT, 387 U.S. 1, 37 (1967).

"Mrs. Gault testified that she knew that she could have appeared with counsel at the juvenile hearing. This knowledge is not a waiver of the right to counsel." *In re Gault*, 387 U.S. 1, 41-42 (1967).

"[C]ounsel is often indispensable to a practical realization of due process of law and may be helpful in making reasoned determinations of fact and proper order of disposition". *In re Gault*, 387 U.S. 1, 40 (1967).

"As a component part of a fair hearing required by due process guaranteed under the 14th Amendment, notice of the right to counsel should be required at all hearings and counsel provided upon request when the family is financially unable to employ counsel." *In re Gault*, 387 U.S. 1, 39 (1967).

"[I]t is necessary that 'Counsel be appointed as a matter of course wherever coercive action is a possibility, without requiring any affirmative choice by child or parent.'" *In re Gault*, 387 U.S. 1, 38 (1967).

"[T]he assistance of counsel is essential for purposes of waiver proceedings, so we hold now that it is equally essential for the determination of delinquency, carrying with it the awesome prospect of incarceration in a state institution until the juvenile reaches the age of 21." *In re Gault*, 387 U.S. 1, 37 (1967).

"The juvenile needs the assistance of counsel to cope with the problems of law, to make skilled inquiry into the facts, to insist upon regularity of the proceedings, and to ascertain whether he has a defense and to prepare and submit. The child 'requires the guiding hand of counsel at every step in the proceedings against him.'" *In re Gault*, 387 U.S. 1, 36 (1967).

“The probation officer cannot act as counsel for the child. His role in the adjudicatory hearing, by statute and in fact, is as arresting officer and witness against the child. Nor can the judge represent the child. There is no material difference in this respect between adult and juvenile proceedings of the sort here involved.” *In re Gault*, 387 U.S. 1, 36 (1967).

“The right to representation by counsel is not a formality. It is not a grudging gesture to a ritualistic requirement. It is of the essence of justice. Appointment of counsel without affording an opportunity for hearing on a ‘critically important’ decision is tantamount to denial of counsel.” *Kent v. U.S.*, 383 U.S. 541, 561 (1966).

“[T]here is no place in our system of law for reaching a result of such tremendous consequences without ceremony—without hearing, without effective assistance of counsel, without a statement of reasons. It is inconceivable that a court of justice dealing with adults, with respect to a similar issue, would proceed in this manner.” *Kent v. U.S.*, 383 U.S. 541, 554 (1966).

DUE PROCESS

"[C]IVIL LABELS AND GOOD INTENTIONS DO NOT THEMSELVES OBVIATE THE NEED FOR CRIMINAL DUE PROCESS SAFEGUARDS IN JUVENILE COURTS, FOR '(A) PROCEEDING WHERE THE ISSUE IS WHETHER THE CHILD WILL BE FOUND TO BE 'DELINQUENT' AND SUBJECTED FOR THE LOSS OF HIS LIBERTY FOR YEARS IS COMPARABLE IN SERIOUSNESS TO A FELONY PROSECUTION.'"

IN RE WINSHIP, 397 U.S. 358, 365-66 (1970).

"For it is clear under our cases that determining the relevance of constitutional policies, like determining the applicability of constitutional rights, in juvenile proceedings, requires that courts eschew the 'civil' label-of-convenience which has been attached to juvenile proceedings,' and that 'the juvenile process . . . be candidly appraised.'" *Breed v. Jones*, 421 U.S. 519, 529 (1975).

"[T]he observance of the standard of proof beyond a reasonable doubt 'will not compel the States to abandon or displace any of the substantive benefits of the juvenile process.'" *In re Winship*, 397 U.S. 358, 367 (1970).

"[C]ivil labels and good intentions do not themselves obviate the need for criminal due process safeguards in juvenile courts, for '(a) proceeding where the issue is whether the child will be found to be 'delinquent' and subjected for the loss of his liberty for years is comparable in seriousness to a felony prosecution.'" *In re Winship*, 397 U.S. 358, 365-66 (1970).

"While due process requirements will, in some instances, introduce a degree of color and regularity to Juvenile Court proceedings to determine delinquency, and in contested cases will introduce some elements of the adversary system, nothing will require that the conception of the kindly juvenile judge be replaced by its opposite . . . . " *In re Gault*, 387 U.S. 1, 27 (1967).

"Unless appropriate due process of law is followed, even the juvenile who has violated the law may not feel that he is being fairly treated and may therefore resist the rehabilitative efforts of court personnel." *In re Gault*, 387 U.S. 1, 26 (1967).

“In any event, there is no reason why, consistently with due process, a State cannot continue, if it deems it appropriate, to provide and to improve provision for the confidentiality of records of police contacts and court action relating to juveniles.” *In re Gault*, 387 U.S. 1, 25 (1967).

“[T]he features of the juvenile system which its proponents have asserted are of unique benefit will not be impaired by constitutional domestication.” *In re Gault*, 387 U.S. 1, 22 (1967).

“It is these instruments of due process which enhance the possibility that truth will emerge from the confrontation of opposing versions and conflicting data. ‘Procedure is to law what ‘scientific method’ is to science.’” *In re Gault*, 387 U.S. 1, 21 (1967).

“[T]he observance of due process standards, intelligently and not ruthlessly administered, will not compel the States to abandon or displace any of the substantive benefits of the juvenile process.” *In re Gault*, 387 U.S. 1, 21 (1967).

“The history of American freedom is, in no small measure, the history of procedure.” *In re Gault*, 387 U.S. 1, 21 (1967).

“Failure to observe the fundamental requirements of due process has resulted in instances, which might have been avoided, of unfairness to individuals and inadequate or inaccurate findings of facts and unfortunate prescriptions of remedy. Due process of law is the primary and indispensable foundation of individual freedom. It is the basic and essential term in the social compact which defines the rights of the individual and delimits the powers which the state may exercise.” *In re Gault*, 387 U.S. 1, 19-20 (1967).

“Unfortunately, loose procedures, high-handed methods and crowded court calendars, either singly or in combination, all too often, have resulted in depriving some juveniles of fundamental rights that have resulted in a denial of due process.” *In re Gault*, 387 U.S. 1, 19 (1967).

“The absence of substantive standards has not necessarily meant that children receive careful, compassionate, individualized treatment. The absence of procedural rules based upon constitutional principle has not always produced fair, efficient, and effective procedures. Departures from established principles of due process have frequently resulted not in enlightened procedure, but in arbitrariness.” *In re Gault*, 387 U.S. 1, 18-19 (1967).

“Juvenile Court history has again demonstrated that unbridled discretion, however benevolently motivated, is frequently a poor substitute for principle and procedure.” *In re Gault*, 387 U.S. 1, 18 (1967).

“Neither the Fourteenth Amendment nor the Bill of Rights is for adults alone.” *In re Gault*, 387 U.S. 1, 13 (1967).

“[T]he admonition to function in a ‘parental’ relationship is not an invitation to procedural arbitrariness.” *Kent v. U.S.*, 383 U.S. 541, 555 (1966).

“[A]s assurance against ancient evils, our country, in order to preserve ‘the blessings of liberty’, wrote into its basic law the requirement, among others, that the forfeiture of the lives, liberties or property of people accused of crime can only follow if procedural safeguards of due process have been obeyed.” *Gallegos v. Colorado*, 370 U.S. 49, 51 (1962) (quoting *Chambers v. Florida*, 309 U.S. 227, 236-237).

“We cannot give weight to recitals which merely formalize constitutional requirements. Formulas of respect for constitutional safeguards cannot prevail of the facts of life which contradict them. They may not become a cloak for inquisitorial practices and make an empty form of the due process of law for which free men fought and died to obtain.” *Haley v. Ohio*, 332 U.S. 596, 601 (1948).

“Neither man nor child can be allowed to stand condemned by methods which flout constitutional requirements of due process of law.” *Haley v. Ohio*, 332 U.S. 596, 601 (1948).

TRANSFER AND WAIVER OF JURISDICTION

"IT IS CLEAR BEYOND DISPUTE THAT THE WAIVER OF JURISDICTION IS A 'CRITICALLY IMPORTANT' ACTION DETERMINING VITALLY IMPORTANT STATUTORY RIGHTS OF THE JUVENILE."

KENT V. U.S., 383 U.S. 541, 556 (1966).

"We require only that, whatever the relevant criteria, and whatever the evidence demanded, a State determine whether it wants to treat a juvenile within the juvenile-court system before entering upon a proceeding that may result in an adjudication that he has violated a criminal law and in a substantial deprivation of liberty, rather than subject him to the expense, delay, strain, and embarrassment of two such proceedings. Moreover, we are not persuaded that the burdens [State] envisions would pose a significant problem for the administration of the juvenile-court system." *Breed v. Jones*, 421 U.S. 519, 537-38 (1975).

"The possibility of transfer from juvenile court to a court of general criminal jurisdiction is a matter of great significance to the juvenile." *Breed v. Jones*, 421 U.S. 519, 535 (1975).

"The statute gives the Juvenile Court a substantial degree of discretion as to the factual considerations to be evaluated, the weight to be given them and the conclusion to be reached. It does not confer upon the Juvenile Court a license for arbitrary procedure. The statute does not permit the Juvenile Court to determine in isolation and without the participation or any representation of the child the 'critically important' question whether a child will be deprived of the special protections and provisions of the Juvenile Court Act." *Kent v. U.S.*, 383 U.S. 541, 553 (1966).

"It is clear beyond dispute that the waiver of jurisdiction is a 'critically important' action determining vitally important statutory rights of the juvenile." *Kent v. U.S.*, 383 U.S. 541, 556 (1966).

"All of the social records concerning the child are usually relevant to waiver since the Juvenile Court must be deemed to consider the entire history of the child in determining waiver." *Kent v. U.S.*, 383 U.S. 541, 559 (1966).

"[T]he determination of whether to transfer a child from the statutory structure of the Juvenile Court to the criminal processes of the District Court is 'critically important.'" *Kent v. U.S.*, 383 U.S. 541, 560 (1966).

"Meaningful review requires that the reviewing court should review. It should not be remitted to assumptions. It must have before it a statement of the reasons motivating the waiver including, of course, a statement of the relevant facts. It may not 'assume' that there are adequate reasons, nor may it merely assume that 'full investigation' has been made. *Kent v. U.S.*, 383 U.S. 541, 561 (1966).

"[I]t is incumbent upon the Juvenile Court to accompany its waiver order with a statement of the reasons or considerations therefor." *Kent v. U.S.*, 383 U.S. 541, 561 (1966).

"[A]n opportunity for a hearing which may be informal, must be given the child prior to entry of a waiver order… [T]he child is entitled to counsel in connection with a waiver proceeding, and … counsel is entitled to see the child's social records. These rights are meaningless—an illusion, a mockery—unless counsel is given an opportunity to function." *Kent v. U.S.*, 383 U.S. 541, 561 (1966).

"[T]he hearing must measure up to the essential of due process and fair treatment." *Kent v. U.S.*, 383 U.S. 541, 562 (1966).

"If a decision on waiver is 'critically important' it is equally of 'critical importance' that the material submitted to the judge—which is protected by the statute only against 'indiscriminate' inspection—be subjected, within reasonable limits having regard to the theory of the Juvenile Court Act, to examination, criticism and refutation." *Kent v. U.S.*, 383 U.S. 541, 563 (1966).

INTERROGATION, CONFESSIONS, AND SELF-INCRIMINATION

"JUVENILE PROCEEDINGS TO DETERMINE 'DELINQUENCY,' WHICH MAY LEAD TO COMMITMENT TO A STATE INSTITUTION, MUST BE REGARDED AS 'CRIMINAL' FOR PURPOSES OF THE PRIVILEGE AGAINST SELF-INCRIMINATION."

IN RE GAULT, 387 U.S. 1, 49 (1967).

"In some circumstances, a child's age 'would have affected how a reasonable person' in the suspect's position 'would perceive his or her freedom to leave.' That is, a reasonable child subjected to police questioning will sometimes feel pressured to submit when a reasonable adult would feel free to go." *J.D.B. v. North Carolina*, 564 U.S. 261, 271-72 (2011).

"By its very nature, custodial police interrogation entails 'inherently compelling pressures.' Even for an adult, the physical and psychological isolation of custodial interrogation can 'undermine the individual's will to resist and . . . compel him to speak where he would not otherwise do so freely.'" *J.D.B. v. North Carolina*, 564 U.S. 261, 269 (2011).

"[A]bsent a valid confession, a determination of delinquency and an order of commitment to a state institution cannot be sustained in the absence of sworn testimony subjected to the opportunity for cross-examination in accordance with our law and constitutional requirements." *In re Gault*, 387 U.S. 1, 57 (1967).

"The participation of counsel will, of course, assist the police, Juvenile Courts and appellate tribunals in administering the privilege. If counsel was not present for some permissible reason when an admission was obtained, the greatest care must be taken to assure that the admission was voluntary, in the sense not only that it was not coerced or suggested, but also that it was not the product of ignorance of rights or of adolescent fantasy, fright or despair." *In re Gault*, 387 U.S. 1, 55 (1967).

"[T]he constitutional privilege against self-incrimination is applicable in the case of juveniles as it is with respect to adults." *In re Gault*, 387 U.S. 1, 55 (1967).

“[W]here children are induced to confess by ‘paternal’ urgings on the part of officials and the confession is then followed by disciplinary action, the child’s reaction is likely to be hostile and adverse—the child may well feel that he has been led or tricked into confession and that despite his confession, he is being punished.” *In re Gault*, 387 U.S. 1, 51 (1967).

“Compelling the child to answer questions, without warning or advice as to his right to remain silent, does not serve this or any other good purpose.” *In re Gault*, 387 U.S. 1, 51 (1967).

“Evidence is accumulating that confessions by juveniles do not aid in ‘individualized treatment,’ as the court below put it, and that compelling the child to answer questions, without warning or advice as to his right to remain silent, does not serve this or any other good purpose.” *In re Gault*, 387 U.S. 1, 51 (1967).

“And our Constitution guarantees that no person shall be ‘compelled’ to be a witness against himself when he is threatened with deprivation of his liberty—a command which this Court has broadly applied and generously implemented in accordance with the teaching of the history of the privilege and its great office in mankind’s battle for freedom.” *In re Gault*, 387 U.S. 1, 50 (1967).

“Juvenile proceedings to determine ‘delinquency,’ which may lead to commitment to a state institution, must be regarded as ‘criminal’ for purposes of the privilege against self-incrimination.” *In re Gault*, 387 U.S. 1, 49 (1967).

“It would indeed be surprising if the privilege against self-incrimination were available to hardened criminals but not to children. The language of the Fifth Amendment, applicable to the States by operation of the Fourteenth Amendment, is unequivocal and without exception. And the scope of the privilege is comprehensive.” *In re Gault*, 387 U.S. 1, 47 (1967).

“One of [the Fifth Amendment’s] purposes is to prevent the state, whether by force or by psychological domination, from overcoming the mind and will of the person under investigation and depriving him of the freedom to decide whether to assist the state in securing his conviction.” *In re Gault*, 387 U.S. 1, 47 (1967).

“Admissions and confessions of juveniles require special caution.” *In re Gault*, 387 U.S. 1, 45 (1967).

“[A] 14-year-old boy, no matter how sophisticated, is unlikely to have any conception of what will confront him when he is made accessible only to the police. That is to say, we deal with a person who is not equal to the police in knowledge and understanding of the consequences of the questions and answers being recorded and who is unable to know how to protest his own interests or how to get the benefits of his constitutional rights.” *Gallegos v. Colorado*, 370 U.S. 49, 54 (1962).

“The Fourteenth Amendment prohibits the police from using the private, secret custody of either man or child as a device for wringing confessions from them.” *Haley v. Ohio*, 332 U.S. 596, 601 (1948).

“Mature men possibly might stand the ordeal from midnight to 5 a.m. But we cannot believe that a lad of tender years is a match for the police in such a contest. He needs counsel and support if he is not to become the victim first of fear, then of panic. He needs someone on whom to lean lest the overpowering presence of the law, as he knows it, may not crush him.” *Haley v. Ohio*, 332 U.S. 596, 599-600 (1948).

“What transpired would make us pause for careful inquiry if a mature man were involved. And when, as here, a mere child—an easy victim of the law—is there before us, special care in scrutinizing the record must be used.” *Haley v. Ohio*, 332 U.S. 596, 599 (1948).

NOTICE

"NOTICE, TO COMPLY WITH DUE PROCESS REQUIREMENTS, MUST BE GIVEN SUFFICIENTLY IN ADVANCE OF SCHEDULED COURT PROCEEDINGS SO THAT REASONABLE OPPORTUNITY TO PREPARE WILL BE AFFORDED, AND IT MUST "SET FORTH THE ALLEGED MISCONDUCT WITH PARTICULARITY."

IN RE GAULT, 387 U.S. 1, 33 (1967).

"Due process of law requires notice of the sort we have described—that is, notice which would be deemed constitutionally adequate in a civil or criminal proceedings. It does not allow a hearing to be held in which a youth's freedom and his parents' right to his custody are at stake without giving them timely notice, in advance of the hearing, of the specific issues that they must meet." *In re Gault*, 387 U.S. 1, 33-34 (1967).

"Notice, to comply with due process requirements, must be given sufficiently in advance of scheduled court proceedings so that reasonable opportunity to prepare will be afforded, and it must "set forth the alleged misconduct with particularity." *In re Gault*, 387 U.S. 1, 33 (1967).

DISPOSITION & SENTENCING OF YOUTH

"COMMITMENT IS A DEPRIVATION OF LIBERTY. IT IS INCARCERATION AGAINST ONE'S WILL, WHETHER IS IT CALLED 'CRIMINAL' OR 'CIVIL.'"

IN RE GAULT, 387 U.S. 1, 50 (1967).

"Extending parole eligibility to juvenile offenders does not impose an onerous burden on the States, nor does it disturb the finality of state convictions." *Montgomery v. Louisiana*, 136 S.Ct. 718, 736 (2016).

"Because *Miller* determined that sentencing a child to life without parole is excessive for all but 'the rare juvenile offender whose crime reflects irreparable corruption,' it rendered life without parole an unconstitutional penalty for 'a class of defendants because of their status'—i.e., juvenile offenders whose crimes reflect the transient immaturity of youth." *Montgomery v. Louisiana*, 136 S.Ct. 718, 734 (2016).

"*Graham*, *Roper*, and our individualized sentencing decisions make clear that a judge or jury must have the opportunity to consider mitigating circumstances before imposing the harshest possible penalty for juveniles." *Miller v. Alabama*, 567 U.S. 460, 489 (2012).

"*Graham* and *Roper* and our individualized sentencing cases alike teach that in imposing a State's harshest penalties, a sentencer misses too much if he treats every child as an adult." *Miller v. Alabama*, 567 U.S. 460, 477 (2012).

"The judgments of other nations and the international community are not dispositive as to the meaning of the Eighth Amendment. But '[t]he climate of international opinion concerning the acceptability of a particular punishment' is also 'not irrelevant.'" *Graham v. Florida*, 560 U.S. 48, 80 (2010).

"A sentence lacking any legitimate penological justification is by its nature disproportionate to the offense." *Graham v. Florida*, 560 U.S. 48, 71 (2010).

"Whether viewed as an attempt to express the community's moral outrage or as an attempt to right the balance for the wrong to the victim, the case for retribution is not as strong with a minor as with an adult." *Roper v. Simmons*, 543 U.S. 551, 571 (2005).

“[W]e have established the propriety and affirmed the necessity of referring to ‘the evolving standards of decency that mark the progress of a maturing society’ to determine which punishments are so disproportionate as to be cruel and unusual.” *Roper v. Simmons*, 543 U.S. 551, 561 (2005).

“[P]unishment for crime should be graduated and proportioned to [the] offense.” *Roper v. Simmons*, 543 U.S. 551, 560 (2005).

“Commitment is a deprivation of liberty. It is incarceration against one’s will, whether is it called ‘criminal’ or ‘civil.’” *In re Gault*, 387 U.S. 1, 50 (1967).

POST-DISPOSITION AND APPELLATE REVIEW

"[T]HE CONSEQUENCES OF FAILURE TO PROVIDE AN APPEAL, TO RECORD THE PROCEEDINGS, OR TO MAKE FINDINGS OR STATE THE GROUNDS FOR THE JUVENILE COURT'S CONCLUSION MAY BE TO THROW A BURDEN UPON THE MACHINERY FOR HABEAS CORPUS, TO SADDLE THE REVIEWING PROCESS WITH THE BURDEN OF ATTEMPTING TO RECONSTRUCT A RECORD, AND TO IMPOSE UPON THE JUVENILE JUDGE THE UNSEEMLY DUTY OF TESTIFYING UNDER CROSS-EXAMINATION AS TO THE EVENTS THAT TRANSPIRED IN THE HEARINGS BEFORE HIM."

IN RE GAULT, 387 U.S. 1, 58 (1967).

"[T]he consequences of failure to provide an appeal, to record the proceedings, or to make findings or state the grounds for the juvenile court's conclusion may be to throw a burden upon the machinery for habeas corpus, to saddle the reviewing process with the burden of attempting to reconstruct a record, and to impose upon the Juvenile Judge the unseemly duty of testifying under cross-examination as to the events that transpired in the hearings before him." *In re Gault*, 387 U.S. 1, 58 (1967).

LIFE WITHOUT PAROLE (LWOP) FOR YOUTH

"WITH RESPECT TO LIFE WITHOUT PAROLE FOR JUVENILE NONHOMICIDE OFFENDERS, NONE OF THE GOALS FOR PENAL SANCTIONS THAT HAVE BEEN RECOGNIZED AS LEGITIMATE—RETRIBUTION, DETERRENCE, INCAPACITATION, AND REHABILITATION—PROVIDES AN ADEQUATE JUSTIFICATION."

GRAHAM V. FLORIDA, 560 U.S. 48, 71 (2010).

"*Miller*'s conclusion that the sentence of life without parole is disproportionate for the vast majority of juvenile offenders raises a grave risk that many are being held in violation of the Constitution." *Montgomery v. Louisiana*, 136 S.Ct. 718, 736 (2016).

"[T]he Eighth Amendment forbids a sentencing scheme that mandates life in prison without possibility of parole for juvenile offenders." *Miller v. Alabama*, 567 U.S. 460, 479 (2012).

"Life in prison without the possibility of parole gives no chance for fulfillment outside prison walls, no chance for reconciliation with society, no hope. Maturity can lead to that considered reflection which is the foundation for remorse, renewal, and rehabilitation. A young person who knows that he or she has no chance to leave prison before life's end has little incentive to become a responsible individual." *Graham v. Florida*, 560 U.S. 48, 79 (2010).

"The Eighth Amendment does not foreclose the possibility that persons convicted of nonhomicide crimes committed before adulthood will remain behind bars for life. It does prohibit States from making the judgement at the outset that those offenders never will be fit to reenter society." *Graham v. Florida*, 560 U.S. 48, 75 (2010).

"Because '[t]he age of 18 is point where society draws the line for many purposes between childhood and adulthood,' those who were below that age when the offense was committed may not be sentenced to life without parole for a nonhomicide crime." *Graham v. Florida*, 560 U.S. 48, 74-75 (2010).

“The penalty forswears altogether the rehabilitative ideal. By denying the defendant the right to reenter the community, the State makes an irrevocable judgment about that person’s value and place in society. This judgment is not appropriate in light of a juvenile nonhomicide offender’s capacity for change and limited moral culpability.” *Graham v. Florida*, 560 U.S. 48, 74 (2010).

“[W]hile incapacitation may be a legitimate penological goal sufficient to justify life without parole in other contexts, it is inadequate to justify that punishment for juveniles who did not commit homicide. To justify life without parole on the assumption that the juvenile offender forever will be a danger to society requires the sentencer to make a judgment that the juvenile is incorrigible. The characteristics of juveniles make that judgment questionable.” *Graham v. Florida*, 560 U.S. 48, 72-73 (2010).

“Here, in light of juvenile nonhomicide offenders’ diminished moral responsibility, any limited deterrent effect provided by life without parole is not enough to justify the sentence.” *Graham v. Florida*, 560 U.S. 48, 72 (2010).

“Deterrence does not suffice to justify the sentence either. *Roper* notes that ‘the same characteristics that render juveniles less culpable than adults suggest . . . that juveniles will be less susceptible to deterrence.’” *Graham v. Florida*, 560 U.S. 48, 72 (2010).

“[R]etribution does not justify imposing the second most severe penalty on the less culpable juvenile nonhomicide offender.” *Graham v. Florida*, 560 U.S. 48, 72 (2010).

“With respect to life without parole for juvenile nonhomicide offenders, none of the goals for penal sanctions that have been recognized as legitimate—retribution, deterrence, incapacitation, and rehabilitation—provides an adequate justification.” *Graham v. Florida*, 560 U.S. 48, 71 (2010).

“Life without parole is an especially harsh punishment for a juvenile. Under this sentence a juvenile offender will on average serve more years and a greater percentage of his life in prison than an adult offender. A 16-year-old and a 75-year-old each sentenced to life without parole receive the same punishment in name only.” *Graham v. Florida*, 560 U.S. 48, 70 (2010).

“[T]his sentence ‘means denial of hope; it means that good behavior and character improvement are immaterial; it means that whatever the future might hold in store for the mind and spirit of [the convict], he will remain in prison for the rest of his days.’” *Graham v. Florida*, 560 U.S. 48, 70 (2010).

"[L]ife without parole sentences share some characteristics with death sentences that are shared by no other sentences. The State does not execute the offender sentenced to life without parole, but the sentence alters the offender's life by a forfeiture that is irrevocable. It deprives the convict of the most basic liberties without giving hope of restoration, except perhaps by executive clemency—the remote possibility of which does not mitigate the harshness of the sentence." *Graham v. Florida*, 560 U.S. 48, 69-70 (2010).

DEATH PENALTY

"THE EIGHTH AND FOURTEENTH AMENDMENTS FORBID IMPOSITION OF THE DEATH PENALTY ON OFFENDERS WHO WERE UNDER THE AGE OF 18 WHEN THEIR CRIMES WERE COMMITTED."

ROPER V. SIMMONS, 543 U.S. 551 (2005).

"[T]he objective indicia of national consensus here—the rejection of the juvenile death penalty in the majority of States; the infrequency of its use even where it remains on the books; and the consistency in the trend toward abolition of the practice—provide sufficient evidence that today society view juveniles, in the words *Atkins* used respecting the mentally retarded, as 'categorically less culpable than the average criminal,'" *Roper v. Simmons*, 543 U.S. 551, 552 (2005).

"The Eighth and Fourteenth Amendments forbid imposition of the death penalty on offenders who were under the age of 18 when their crimes were committed." *Roper v. Simmons*, 543 U.S. 551 (2005).

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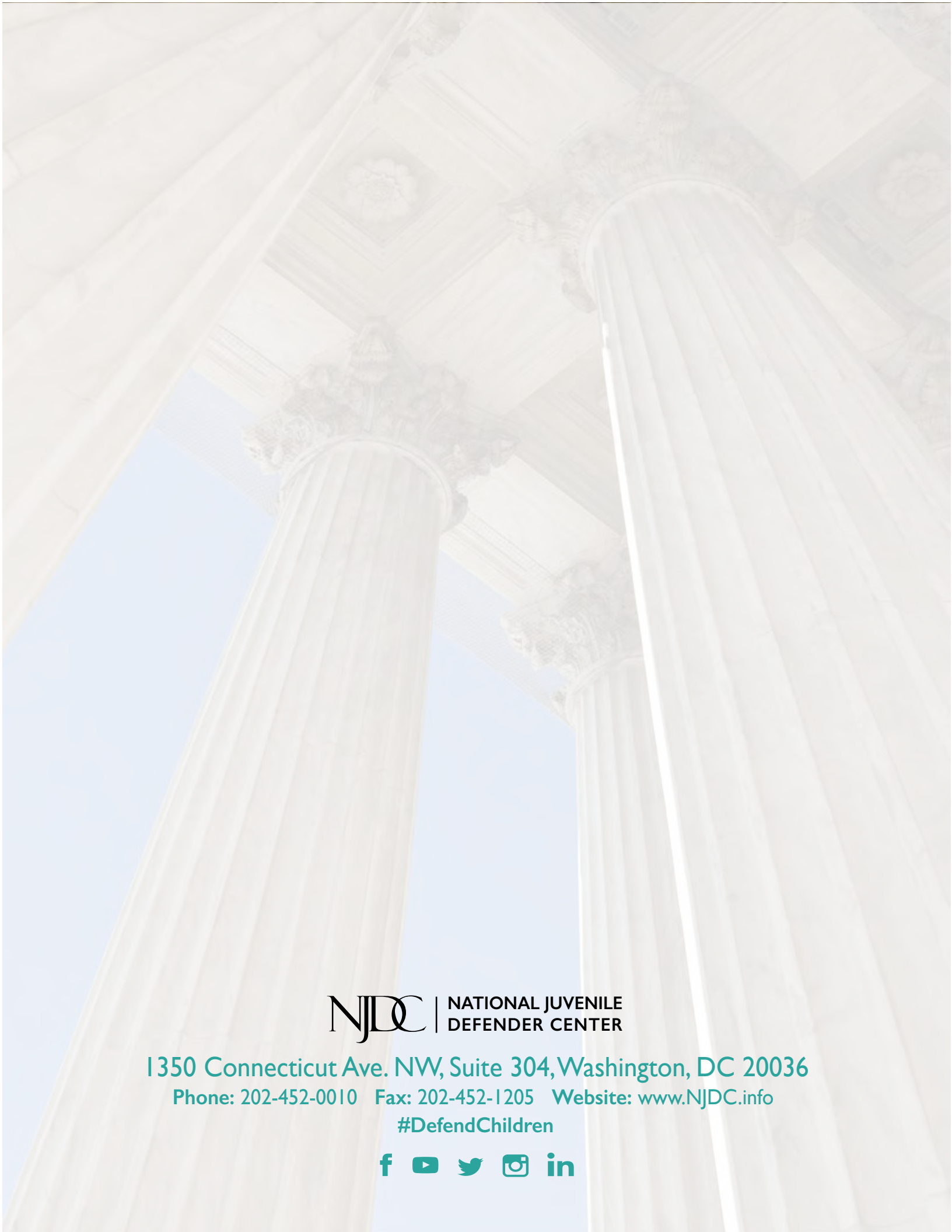

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